



UNITED STATES PATENT AND TRADEMARK OFFICE

96
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,128	09/13/2000	Gerard Lang	05725.0632	7777

7590

01/08/2002

Finnegan Henderson Farabow Garrett & Dunner
1300 I Street NW
Washington, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
----------	--------------

1751

10

DATE MAILED: 01/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/600,128

Applicant(s)

LANG ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) ☐ Other:

DETAILED ACTION

1 This action is responsive to the amendment filed on November 15, 2001.

2 Claims 35(Amended), 37 and newly added claims 67 and 69 are rejected under 35 U.S.C.
112, second paragraph, for the reasons set forth in the previous office action in paper number 7,
dated 08/15/01.

3 Claims 32-65 and newly added claims 66-69 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Aaslyng et al. (WO' 97/ 19998) in view of Audousset et al. (US' 5,769,903),
for the reasons set forth in the previous office action in paper number 7, dated 08/15/01.

Response to Applicant's Arguments

4 Applicant's arguments filed November 15, 2001, have been fully considered but they are
not persuasive.

Objection to the IDS is rendered moot in view of applicant's response by resubmitting a
copy of the PTO-1449 and the missing documents.

With respect to the rejection based upon 112, second paragraph, Applicant argues that the
term "biotechnology" is a well known term of art and the skilled artisan would readily
understand its metes and bounds.

The examiner respectfully disagrees with the above arguments because the term
"biotechnology" is indefinite and its metes and bounds are not understood.

With respect to the rejection based upon Aaslyng in view of Audousset, Applicant argues
that there is no clear and particular motivation to combine the teaching of Aaslyng and
Audousset, nor is there any reasonable expectation of success in doing so. Applicant also argues
that the combination still would not result in Applicants claimed invention.

The examiner respectfully disagrees with the above arguments because Audousset teaches hair dyeing composition comprising heterocyclic oxidation bases such as pyrimidine derivatives other than 4,5-diamino-6-hydroxy-pyrimidine, pyrazole derivatives other than 3,4-diaminohydroxy-pyrazole (see col. 6, lines 40-64) and heterocyclic couplers such as benzimidazole derivatives (see col. 2, lines 66-67). Aaslyng teaches in analogous art a hair dyeing composition comprising laccase enzymes (see page 3, line 29-31) aromatic dye precursor as oxidation bases (see page 6, line 19 and page 7, line 27) and couplers (see page 8, lines 5-20). Therefore, it is prima facie obvious to combine two compositions each of which is taught by prior art to be useful for same purpose in order to form third composition that is to be used for very same purpose, idea of combining them flows logically from their having individually taught in prior art. (In re Kerkhoven 205 USPQ 1069). Further, combination for same purpose, of one additive explicitly disclosed in prior art and another suggested by prior art is at least prima facie obvious. (In re Susi 169 USPQ 423).

5 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1751

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

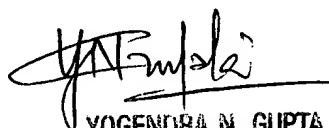
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 746-7171 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

E-E

Eisa

January 3, 2002



YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700